UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:19-cv-00054-RJC

COSHA CUNNINGHAM,)	
)	
Plaintiff,)	
)	
v.)	
)	$\underline{\mathbf{ORDER}}$
ANDREW SAUL,)	
Acting Commissioner of the)	
Social Security Administration,)	
)	
Defendant.)	
)	

THIS MATTER comes before the Court on Plaintiff's Motion for Attorney's Fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, (Doc. No. 18), and Plaintiff's Motion for Attorney's Fees pursuant to 42 U.S.C. § 406(b). (Doc. No. 20). In the EAJA motion, Plaintiff indicates that Defendant had consented to EAJA fees in the amount of \$8,696.88, Defendant did not object to the requested fees, (id. at 2), and the time for doing so has expired. In the 406(b) motion, Plaintiff contends that she is entitled to attorney's fees in the amount of \$15,866.50, which represents less than 25% of Plaintiff's accrued back benefits, to be paid from Plaintiff's back benefits pursuant to section 406(b) of the Social Security Act. 42 U.S.C. § 406(b). Defendant in Response neither supported nor opposed the 406(b) motion. (Doc. No. 22).

The Court has reviewed the motions and supporting exhibits and finds that Plaintiff has established that she is entitled to attorney's fees pursuant to 42 U.S.C.

§ 406(b). For the reasons outlined in Plaintiff's Motion, the Court **GRANTS** Plaintiff's Motion for Attorney's Fees. (Doc. No. 20).

IT IS, THEREFORE, ORDERED that Plaintiff's Motion for Attorney's Fees pursuant to 42 U.S.C. § 406(b), (Doc. No. 20), is GRANTED. The Commissioner of Social Security is hereby ORDERED to pay to Plaintiff's counsel the sum of \$15,866.50 from Plaintiff's back benefits. Additionally, because the motion for fees pursuant to 42 U.S.C. § 406(b) has been granted prior to a ruling on Plaintiff's Motion for Attorney's Fees pursuant to 28 U.S.C. § 2412(d), (Doc. No. 18), and the requested EAJA fee amount is lower than the Attorney's Fees granted pursuant to 42 U.S.C. § 406(b), Plaintiff's Motion for Attorney's Fees Pursuant to 28 U.S.C. § 2412(d), (Doc. No. 18) is DENIED AS MOOT.

Signed: July 2, 2021

Robert J. Conrad, Jr.

United States District Judge